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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,435	09/28/2000	John Kenyon Gerken III	RAL9-2000-0034US1	8160

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EXAMINER

MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/672,435

Applicant(s)

GERKEN ET AL.

Examiner

James S McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 46-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I in Paper No. 6 (June 12, 2003) is acknowledged.

Claims 1-45 are elected and claims 46-57 are withdrawn.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 100, 110, 130, 150, 160, and 170 (see Figure 2). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: page 15, line 19, "524" should be replaced with --424--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 24 recite the limitation "the sales transaction" in line 1. There is insufficient antecedent basis for this limitation in the claim. The examiner recommends replacing "the sales transaction" with --sale transactions--.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5, 8-12, 24-28, and 31-34 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,010,485 (Bigari).

In regards to independent **claim 1**, Bigari discloses a method of accelerating sales transactions of customers in a retail store (see column 3, lines 12-15), comprising the acts of: reading a customer payment card number (via card reader 24) at a customer checkout accelerator; determining a preapproval amount for the sales transaction (see column 7, lines 21-23); displaying the preapproval sales transaction amount to the customer on the checkout accelerator for acceptance (via display 28, see column 7, lines 23-26); transmitting the preapproval amount to an external card services system for approval (see column 7, lines 49-62);

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and storing the approval amount in a preapproval cache (it is inherent that the information is stored in cache) at a point of sales terminal (via communications line 33) for use in completing the sales transaction; **[claim 2]** transmitting the preapproval amount from the customer checkout accelerator to a store controller (via transmitter/receiver 16); **[claim 3]** placing an entry in a preapproval database (26) if the external card services system approves the transaction amount; **[claim 4]** notifying a point of sales terminal of the approval amount (via communication line 33 or voucher reader 34); **[claim 5]** determining if the payment card is one or more of credit card (see charge card reader 24), debit card, a customer loyalty card, an electronic/Internet wallet, or an electronic gift certificate; **[claim 8]** manually entering a specific preapproval amount by the customer (see column 7, lines 21-23); **[claim 9]** scanning the customer payment card at a point of sales terminal (via card reader 24 or voucher reader 34); determining if there is an entry for the customer in the preapproval cache; and resuming the sales transaction at the point of sale terminal; **[claim 10]** comparing the actual sales transaction amount with the preapproval amount (see column 8, lines 38-42); updating a preapproval database with the actual sales transaction amount (see column 8, lines 64-66, at step 130); and releasing the difference between the preapproval amount and the actual sales transaction amount in the preapproval database (see column 9, lines 36-40); **[claim 11]** printing a sales transaction receipt and a credit or debit voucher (see column 8, lines 49-52); and **[claim 12]** if there is not entry for the customer in the preapproval cache, retrieving the preapproval amount from a preapproval database (26) on a store controller file server.

In regards to independent **claim 24**; Bigari discloses a computer readable medium containing a computer program product for accelerating sales transactions of customers in a

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retails that is programmed to complete the steps of claim 1 as described above in detail. Bigari discloses the limitations of **claims 24-28 and 31-34** as described above in detail for similar claims 1-5 and 9-12.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6, 7, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigari in view of *Official Notice*.

In regards to **claims 6, 7, 29, and 30**, Bigari fails to explicitly disclose alternative methods of establishing a preapproval amount. The examiner takes Official Notice that it is old and well known at the time the invention was made to utilize historical data including specific customer information or storewide information to determine preapproval amounts.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bigari with the alternative steps of determining preapproval amounts as is well known in the art, because using historical data provides an accurate estimate of the required preapproval amount, wherein reducing the chance of requesting time consuming reauthorizations.

10. Claims 13, 14, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigari in view of U.S. Patent No. 5,914,472 (Foladare et al.).

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In regards to **claims 13, 14, 35, and 36**, Bigari fails to explicitly disclose requesting reauthorization when the preapproval amount is less than the total desired transaction amount.

Foladare et al. teaches the use of requesting reauthorization when the preapproval amount is less than the total desired transaction amount (see column 3, lines 7-12, wherein the card holder authorizes an approval amount beyond the original preapproval amount).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bigari with the act of reauthorizing the approval amount of Foladare et al., because additional funds may be available to cover the desired purchase, wherein allowing the customer to complete a desired transaction when the total transaction amount is greater than the original preapproval amount.

11. Claims 15-23 and 37-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigari in view of U.S. Patent No. 5,595,264 (Trotta, Jr.).

In regards to **claims 15-23 and 37-45**, Bigari fails to disclose displaying a selection of promotional merchandise that can be added to the sales transactions and updating a vendor-based tracking database to bill the vendor, wherein a selection of additional categories of items is displayed based on customer preferences.

Trotta, Jr. teaches the use of displaying a selection of promotional merchandise that can be added to the sales transactions (see column 7, lines 9-20) and updating a vendor-based tracking database to bill the vendor (see column 7, lines 5-9), wherein a selection of additional categories of items is displayed based on customer preferences (see column 7, lines 3-5, “spending habits”).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bigari with promotional display as taught by Trotta, Jr., because the promotional displays valuable shopper specific marketing data which can be sold to manufacturers to subsidize the cost of the technology (see column 7, lines 4-6)

In regards to claims 15, 19, 37, and 41, it is noted that Applicant failed to positively claim that the promotional merchandise is made available through one or more Internet web sites. The claims use the functional language "can be made available". Clearly, at the time the invention was made, the promotional merchandise could have been made available via a hyperlink to an Internet website.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Smith is cited of interest for disclosing a system for reauthorizing an account that is depleted.

Beach et al. is cited of interest for disclosing an Intranet scanning terminal system.

Paulson is cited of interest for disclosing a pre-lane display software system for retail stores.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

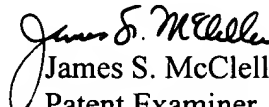
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

(703) 305-7687 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington, VA, 7th floor receptionist.


James S. McClellan
Patent Examiner
A.U. 3627

jsm
July 11, 2003